

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

OSBALDO REYES,

Petitioner,

v.

THERESA CISNEROS,

Respondent.

No. 1:22-cv-01490-SKO (HC)

**FINDINGS AND RECOMMENDATIONS
TO DISMISS PETITION**

[TWENTY-ONE DAY DEADLINE]

Petitioner is a state prisoner proceeding *pro se* and *in forma pauperis* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. He filed the instant petition on November 18, 2022. The petition does not challenge the underlying conviction; rather, it challenges Petitioner's gang validation by the California Department of Corrections and Rehabilitation ("CDCR"). After conducting a preliminary review, the Court found it lacked habeas jurisdiction to consider the claims. The Court dismissed the petition; however, Petitioner was granted an opportunity to file an amended petition to present a cognizable claim. (Doc. 5.) The time allotted to file an amended petition has passed, and Petitioner has not filed an amended petition. Thus, for the reasons stated in the order dismissing the petition, the Court will recommend the petition be **DISMISSED**.

ORDER

IT IS HEREBY ORDERED that the Clerk of Court is DIRECTED to assign a district

1 judge to this case.

2 **RECOMMENDATION**

3 Accordingly, the Court RECOMMENDS that the petition be DISMISSED for lack of
4 jurisdiction.

5 This Findings and Recommendation is submitted to the United States District Court Judge
6 assigned to the case pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 72-304 of
7 the Local Rules of Practice for the United States District Court, Eastern District of California.

8 Within twenty-one (21) days after being served with a copy of this Findings and
9 Recommendation, Petitioner may file written objections with the Court. Such a document should
10 be captioned “Objections to Magistrate Judge’s Findings and Recommendation.” The Court will
11 then review the Magistrate Judge’s ruling pursuant to 28 U.S.C. § 636 (b)(1)(C). The parties are
12 advised that failure to file objections within the specified time may waive the right to appeal the
13 Order of the District Court. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

14
15 IT IS SO ORDERED.

16 Dated: **January 13, 2023**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE